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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/780,780 | 02/18/2004 | Richard DeGreef | MEW-105-A | 2145 |

32856 7590 07/19/2005

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EXAMINER

ADDIE, RAYMOND W

ART UNIT PAPER NUMBER

3671

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,780

Applicant(s)

DEGREEF, RICHARD

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/9/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I Claims 1-13 in the reply filed on 04/25/05 is acknowledged. The traversal is on the ground(s) "that in order for the Examiner to conduct the requisite full and exhaustive search mandated by the rules, that a search of not only the locking mechanism but methods of installing would have to be searched. Thus, no new work would be required on the part of the Examiner... Furthermore, there is a unity of invention which pervades the entire application, namely, a sewer grate with an appropriate locking mechanism". This is not found persuasive because This application is not a national stage entry of a PCT foreign filing and hence is not subject to a "unity of invention" requirement, as argued. Further, the methods of Group II, claims 14-19 are not required to install the locking mechanism for the sewer grate, of Group I. Still further, the locking mechanism and the sewer grate could be made by materially different methods than those of Group II, such as by casting and the like. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Spiess et al. # 5,340,232 in view of Danhauser # 4,973,191.

Spiess et al. discloses a locking device (4), for a sewer grate (3) mounted on a frame (1) having a ledge structure (5a) and a downwardly extending side wall (see Figs. 5b, 5e, 10).

Said locking device comprising:

A plate (4) capable of at least partially encircling at least one of the grate bars, and a sidewall of said frame (1).

Thereby connecting the grate to the frame in a removably, locking fashion. What Spiess et al. does not disclose is the use of a nut and bolt.

However, Danhauser teaches it is known to provide locking sewer covers with an apertured plate (15) mounted below the cover (5) and above a nut retaining means (10) bolt (9) and integrally formed threaded nut and nut retaining means (10), such that said bolt (9) removably locks the cover to the frame. Said bolts (9) having specially shaped heads, in order to prevent tampering and/or unauthorized removal of said sewer cover. As reasonably suggested by both Spiess et al. and Danhauser. See Danhauser cols. 2-3; Fig. 2. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the locking sewer cover of Spiess et al., with a locking bolt assembly, as taught by Danhauser, in order to prevent tampering.

In regards to claims 2-3 Spiess et al. discloses a locking assembly for a sewer grate, as put forth above with respect to claim 1 above, but does not disclose the use of a tamper resistant locking bolt. However, Danhauser teaches it is known to provide locking sewer covers with an locking bolts (9) for removably locking the cover to the frame. Said bolts (9) having specially shaped heads, in order to prevent tampering and/or unauthorized removal of said sewer cover. See Danhauser cols. 2-3; Fig. 2. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the locking sewer cover of Spiess et al., with a locking bolt assembly, as taught by Danhauser, in order to prevent tampering.

In regards to claims 4-9, 11-13 Spiess et al. clearly illustrates a vast assortment of locking plates (4), having different and equivalent configurations, see Figs. 1b-10, for removably securing the sewer grate (3) to a support frame (1). Further Danhauser teaches it is known to lock sewer covers (5) to support frames (1) via an apertured plate having a threaded hole in a sidewall of said frame (1). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the locking sewer grate of Spiess et al., with a threaded locking assembly, as taught by Danhauser, in order to prevent tampering.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith # 5,324,135 discloses a locking sewer cover.

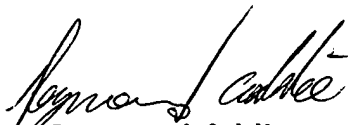
Art Unit: 3671

Petersen et al. # 6,811,119 B1 discloses a pit cover latch. Cook # 887,591 discloses a manhole locking device. Schrage # 6,752,565 B2 discloses a manhole cover locking system. Knack US 2003/0147693 A1 discloses a grate assembly. Sharpless # 5,849,198 discloses a sewer grate assembly.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 571 272-6986. The examiner can normally be reached on 6AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond Addie
Patent Examiner
Group 3600

7/16/05